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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,828	02/04/2004	Song Jung Chun	MM4565CIP	6016

7590 06/23/2005
Anderson Kill & Olick
1251 Avenue of the Americas
New York, NY 10020-1182

EXAMINER

PANG, ROGER L

ART UNIT	PAPER NUMBER
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3681

DATE MAILED: 06/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/772,828

Applicant(s)

CHUN, SONG JUNG

Examiner

Roger L. Pang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 10/264,994.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

The following action is in response to application 10/772,828 filed on February 4, 2004.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With regard to claim 1, on line 14, the limitation of "the brake pedal" lacks antecedent basis. With regard to claim 2, on line 14, the limitation of "the brake pedal" lacks antecedent basis, and so does the limitation of "the locking device case" on line 15.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holgate in view of Preston, in further view of Miller, and in further view of Katayama. With regard to claim 1, Holgate discloses an apparatus for preventing acceleration comprising a first slider 28 connected to a rod 9 connected to an accelerator pedal 13, a second slider 26 with one end connected to a rod 9 connected to a fuel injector 4, a locking device 14/12/18/19 having a locking rod 12, a reset spring 30a, a solenoid clutch 14 for controlling the locking rod, and a the

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locking device electrically connected (via 18,19) to a brake pedal 16 actuation sensor, and a locking device case (Fig. 3). Holgate lacks the teaching of cables connected to the accelerator pedal and fuel injector and a case for housing said locking device. Preston teaches a rigid element 23 controlled by a cable 26 connected to an accelerator pedal and a rigid element 23 connected to a cable 28 controlling a fuel injection device 12. It would have been obvious for one of ordinary skill in the art at the time of the invention to modify Holgate to employ cables in view of Preston in order to provide adaptive mounting of the device to various vehicles (Col. 2, lines 59-65). Holgate also lacks the specific teaching of a spring reset rod. Miller teaches a solenoid actuator 10 wherein a spring reset rod 54 is equipped through a locking device case 13 to a locking rod reset spring 48 to adjust the spring force of the locking rod reset spring. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Holgate to employ a spring reset rod in further view of Miller in order to allow for necessary adjustments based on wear and actuator specifications. Holgate also lacks the teaching of the locking device being electrically connected an actuation sensor connected to the accelerator pedal. Katayama discloses an apparatus that electrically senses the accelerator and brake pedal depressions to control a throttle valve to protect the vehicle against abnormal overrunning. It would have been obvious for one of ordinary skill in the art at the time of this invention to modify the locking device of Holgate to employ an electrical connection to actuation sensors connected to the accelerator pedal in further view of Katayama in order to prevent abnormal overrunning during braking. With regard to claim 5, Holgate teaches the apparatus, wherein a reset spring 11a is installed between the first slider and a case 2.

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Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Holgate in view of Preston, in further view of Miller, in further view of Katayama as applied to claim 2 above, and further in view of Davidson. Holgate teaches the apparatus, but lacks the teaching of an air hole formed outside the hollow of the second slider. Davidson discloses an air hole 20a/20b formed outside of a second slider 26/27. It would have been obvious for one of ordinary skill in the art at the time of the invention to modify the second slider of Holgate to employ an air hole in further view of Davidson in order to facilitate movement of the first slider.

Allowable Subject Matter

Claims 1, and 3-4 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bauer, Villiers, Patrick, and Gruden have been cited to show similar locking devices and actuators.

FACSIMILE TRANSMISSION

Submission of your response by facsimile transmission is encouraged. Group 3600's facsimile number is (703) 305-3597. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing

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and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see MPEP 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitting by facsimile transmission separately from the check.

Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (703) 305-3597) on _____ (Date)

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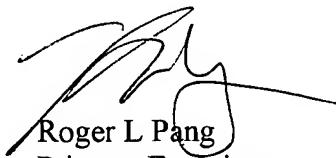
If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MPEP 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your

response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roger L. Pang whose telephone number is 571-272-7096. The examiner can normally be reached on 5:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Roger L Pang
Primary Examiner
Art Unit 3681

June 22, 2005